

§ 15.11

business may be represented by the Department of Justice at its discretion. See 28 CFR 50.15 and 50.16 (1987).

(g) The General Counsel or Solicitor or Department employee designated by either, when accepting service of process for a Department employee in an official capacity, shall endorse on the Marshal's or server's return of service form or receipt for registered or certified mail the following statement: "Service accepted in official capacity only." The statement may be placed on the form or receipt with a rubber stamp.

(h) Upon acceptance of service or receiving notification of service, as provided in this section, the General Counsel and Solicitor shall take appropriate steps to protect the rights of the Department, component, the Secretary or Department employee involved.

Subpart B—Testimony by Employees and the Production of Documents in Legal Proceedings

SOURCE: 60 FR 9291, Feb. 17, 1995, unless otherwise noted. Redesignated at 62 FR 19669, Apr. 23, 1997.

§ 15.11 Scope.

(a) This subpart sets forth the policies and procedures of the Department of Commerce regarding the testimony of employees, and former employees, as witnesses in legal proceedings and the production or disclosure of information contained in Department of Commerce documents for use in legal proceedings pursuant to a request, order, or subpoena (collectively referred to in this subpart as a "demand").

(b) This subpart does not apply to any legal proceeding in which an employee is to testify while on leave status, regarding facts or events that are unrelated to the official business of the Department.

(c) This subpart in no way affects the rights and procedures governing public access to records pursuant to the Freedom of Information Act, the Privacy Act or the Trade Secrets Act.

(d) This subpart is not intended to be relied upon to, and does not, create any right or benefit, substantive or proce-

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dural, enforceable at law by any party against the United States.

§ 15.12 Definitions.

For the purpose of this subpart:

(a) *Agency counsel* means the chief legal officer (or his/her designee) of an agency within the Department of Commerce.

(b) *Component* means Office of the Secretary or an operating unit of the Department as defined in Department Organization Order 1-1.

(c) *Demand* means a request, order, or subpoena for testimony or documents for use in a legal proceeding.

(d) *Department* means the United States Department of Commerce and its constituent agencies.

(e) *Document* means any record, paper and other property held by the Department, including without limitation, official letters, telegrams, memoranda, reports, studies, calendar and diary entries, maps, graphs, pamphlets, notes, charts, tabulations, analyses, statistical or informational accumulations, any kind of summaries of meetings and conversations, film impressions, magnetic tapes and sound or mechanical reproductions.

(f) *Employee* means all current or former employees or officers of the Department, including commissioned officers of the National Oceanic and Atmospheric Administration and any other individual who has been appointed by, or subject to the supervision, jurisdiction or control of the Secretary of the Department of Commerce.

(g) *General Counsel* means the General Counsel of the Department or other Department employee to whom the General Counsel has delegated authority to act under this subpart.

(h) *Legal proceeding* means all pre-trial, trial and post trial stages of all existing or reasonably anticipated judicial or administrative actions, hearings, investigations, or similar proceedings before courts, commissions, boards or other tribunals, foreign or domestic. This phrase includes all phases of discovery as well as responses to formal or informal requests by attorneys or others involved in legal proceedings.